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5 ALAN BACOCK: I'm Alan Bacock, for the Big
6 Pine Paiute Tribe of the Owens Valley. These are
7 comments on behalf our tribe.

8 On August 21, 2001 the DOE issued a notice
9 in the Federal Register on the planned Yucca Mountain
10 Site Recommendation Consideration Hearings and End of
11 Public Comment Period, together with an announcement of
12 the availability of the Yucca Mountain PSSE. The
13 announcement states that the PSSE contains a preliminary
14 evaluation of the suitability of the Yucca Mountain site
15 for development as a geologic repository based on the
16 DOE's proposed site suitability regulations, to be
17 codified as 10 CFR 963. Since the DOE has an existing
18 set of site suitability regulations, codified as 10 CFR
19 960, please explain why the DOE is not evaluating the
20 Yucca Mountain site under those regulations, and
21 providing the public the opportunity to see the DOE's
22 evaluation of the site under those regulations.

23 The Tribe finds that basing an evaluation
24 of the Yucca Mountain site on proposed regulations, when
25 there are existing regulations that have gone through

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1 the public notice and comment process and have been
2 codified since 1984, violates not only the
3 Administrative Procedures Act, but also the public
4 trust. Therefore, the Tribe insists the DOE immediately
5 suspend the current notice that is in the Federal
6 Register, conduct an evaluation of the Yucca Mountain
7 site under the 10 CFR 960 guidelines, and publish the
8 results of that evaluation in the Federal Register for
9 public review and comment.

10 The PSSE fails to include the
11 transportation of spent nuclear fuel and high-level
12 waste to the proposed Yucca Mountain repository. The
13 Draft Environmental Impactment Statement for the
14 Geologic Repository for the Disposal of Spent Nuclear
15 Fuel and High-Level Radioactive Waste (DEIS) previously
16 submitted by the DOE identifies the transportation of
17 spent nuclear fuel and high-level waste as one component
18 necessary for a repository. Therefore, transportation
19 is a connected action and should be considered an
20 integral part of the PSSE.

21 The DOE identified and evaluated potential
22 highway and rail routes within the state of Nevada in
23 1986. DOE's 1986 Environmental Assessment for Yucca

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24 Mountain and candidate sites in four other states

25 concluded that Yucca Mountain was the worst possible

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1 location from a transportation perspective. DOE

2 documented that Yucca Mountain had the poorest access to

3 the National Interstate Highway and Mainline Railroad

4 Networks, and the most difficult rail access

5 construction requirements. DOE's 1986 Comparative

6 Analysis also showed that the selection of Yucca

7 Mountain would result in the highest cross-country

8 transportation requirements, highest total

9 transportation costs, and the highest projected number

10 of transportation accident injuries and fatalities.

11 The final Environmental Impact Statement

12 for the Yucca Mountain project is not yet available.

13 The DEIS, issued in July 1999, elicited approximately

14 11,000 comments that have not been addressed.

15 Tribes have set aside a lot of time and

16 energy to participate in the suitability of the Yucca

17 Mountain project, yet we have received no response from

18 the DOE on our comments to the DEIS and our significant

19 concerns have not been addressed. It now appears that

20 our comments to the DEIS are considered irrelevant due

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21 to the fact that the Secretary of Energy may recommend
22 the Yucca Mountain site regardless of the DEIS. Tribes
23 cannot have confidence in an agency that seems to
24 consider approval of the Yucca Mountain site a foregone
25 conclusion without tribal input.

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1 The DOE, according to the DEIS, has not yet
2 chosen a preferred design alternative, therefore, the
3 DEIS cannot adequately assess the potential
4 environmental impacts of a nuclear waste repository at
5 Yucca Mountain. How can the DOE describe what the
6 impacts will be when it does not even know what the
7 design of the repository will be? How can the president
8 and congress and the Nuclear Regulatory Commission make
9 informed decisions about whether or not to recommend and
10 license Yucca mountain as the site for a nuclear waste
11 repository if it is not clear what it will look like and
12 how hot it will be? The DOE has a responsibility to
13 choose a design alternative and describe what the
14 impacts of that chosen design will be on the environment
15 and on public health and safety. Since the DEIS was
16 published, the DOE has explored design alternatives that
17 are not even described in the DEIS. The Secretary of

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18 Energy should choose its design for Yucca Mountain,
19 clearly describe it and accurately assess the impacts in
20 the DEIS before submitting a recommendation for site
21 development to the president.

22 The Big Pine Paiute Tribe of the Owens
23 Valley does not believe that Secretary of Energy Spencer
24 Abraham should proceed with a recommendation to develop
25 a nuclear waste repository at Yucca Mountain. According

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1 to a DOE news bulletin on Tuesday, August 21, 2001
2 entitled "Secretary Abraham Reaffirms the Department of
3 Energy's Government-Government Relations with American
4 Indian Tribal Governments" it quotes Secretary Abraham
5 as saying that "we must include tribal participation in
6 the decision making process where our action may impact
7 their environmental and cultural interest." If
8 Secretary Abraham determines that the Yucca Mountain
9 site is suitable without addressing previous concerns by
10 Tribes, then the United States federal government has
11 failed to meet its trust responsibility with Native
12 American governments. Native American concerns must be
13 addressed before submitting a recommendation to the
14 president. Our people have called this beautiful part

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15 of the United States home for generations and we are the
16 people who will have to live with the effects of a
17 poorly planned nuclear repository at Yucca Mountain